

10-01-2002

Form PTO-1594
(Rev. 3/3/01)
OMB No. 0651-0027 (exp.
5/31/2002)



U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

Tab settings ⇨ ⇨ ⇨ ▼

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To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Ableco Finance LLC

9-23-02

- ☐ Individual(s) ☐ Association
☐ General Partnership ☐ Limited Partnership
☐ Corporation-State
☒ Other **Delaware Limited Liability Company**

Additional name(s) of conveying party(ies) attached? ☐ Yes ☐ No

3. Nature of conveyance:

- ☐ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☒ **Partial Release of Security Interest**

Execution Date: **September 5, 2002**

2. Name and address of receiving party(ies)

Name: **McCormick & Schmick Acquisition Corp.**

Internal

Address: _____

Street Address: **720 Southwest Washington Street**

City: **Portland** State: **OR** Zip: **97205**

- ☐ Individual(s) citizenship _____
☐ Association _____
☐ General Partnership _____
☐ Limited Partnership _____
☒ Corporation-State **Delaware**
☐ Other _____

If assignee is not domiciled in the United States, a domestic representative designation is attached: ☐ Yes ☐ No
(Designations must be a separate document from this assignment.)
Additional name(s) & address(es) attached? ☐ Yes ☐ No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

75/738,763, 75/625,487

B. Trademark Registration No.(s)

1328806, 1306235, 1610827, 2272893, 1528274, 2038613, 1536934

Additional number(s) attached ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: **Stanley Seuradge**

Internal Address: **Schulte Roth & Zabel LLP**

Street Address: **919 Third Avenue**

City: **New York** State: **N.Y.** Zip: **10022**

6. Total number of applications and registrations involved:.....

5

7. Total fee (37 CFR 3.41).....\$ **240.00**

- ☐ Enclosed
☒ Authorized to be charged to deposit account

8. Deposit account number:

500675 - Schulte Roth & Zabel

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Stanley Seuradge

Name of Person Signing

Signature

September 19, 2002

Date

Total number of pages including cover sheet, attachments, and document: **8**

10/01/2002 LINDSEY 00000014 500675 75/38763

01 FC:481
02 FC:482

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200.00 CH

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Mail documents to be recorded with required cover sheet information to:
Commissioner of Patent & Trademark, Box Assignments
Washington, D.C. 20231

TRADEMARK
REEL: 002591 FRAME: 0144

PARTIAL RELEASE OF SECURITY INTEREST

This PARTIAL RELEASE OF SECURITY INTEREST (the "Partial Release") is made and effective as of the date indicated below and is granted by ABLECO FINANCE LLC, a Delaware limited liability company, as collateral agent for certain lenders ("Releasor"), in favor of MCCORMICK & SCHMICK ACQUISITION CORP., a Delaware corporation ("Releasee").

WHEREAS, Avado Brands, Inc., a Georgia corporation ("Debtor"), Wachovia Bank, N.A., a national banking association with its principal place of business at 191 Peachtree Street, Atlanta, GA 30303, as administrative agent and as a lender ("Wachovia"), and certain other lenders entered into that certain Credit Agreement dated as of June 22, 1999 (including all annexes, exhibits or schedules thereto, and as from time to time amended, restated, supplemented or otherwise modified, the "Credit Agreement"); and

WHEREAS, pursuant to the Credit Agreement, Debtor executed that certain Master Security Agreement, dated as of January 22, 2000 (as amended, restated, supplemented or otherwise modified from time to time, the "Master Security Agreement"); and that certain Trademark Security Agreement, dated as of January 31, 2000 (as amended, restated, supplemented or otherwise modified from time to time, the "Trademark Security Agreement" and together with the Credit Agreement and the Master Security Agreement hereinafter collectively referred to as the "Security Agreement") in favor of Wachovia, pursuant to which Debtor granted to Wachovia a continuing security interest in all of Debtor's right, title and interest in and to the following, in each case whether then owned or thereafter existing or in which Debtor then had or thereafter acquired an interest (the "Trademark Collateral");

(a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles service marks, logos, other source of business identifiers, prints and labels on which any of the foregoing have appeared or appear, designs and general intangibles of like nature, all registrations and recordings thereof, and all applications in the United States Patent and Trademark Office or in any similar office or agency of the United States or any State thereof including, without limitation, the trademarks specifically identified on Item A ("Trademarks") of Attachment 1 to the Trademark Security Agreement;

(b) all trademark licenses, including, without limitation, each trademark license referred to in Item B ("Trademark Licenses") of Attachment 1 to the Trademark Security Agreement;

(c) all renewals of any of the items described in clauses (a) and (b);

(d) all products and proceeds of, and rights associated with, the foregoing, including (i) any claim by Debtor against third parties for past, present, or future infringement or dilution of any trademark, trademark registration, or trademark license including, without limitation, any trademark, trademark registration, trademark license or trade name referred to in Item A and Item B of Attachment 1 to the Trademark Security Agreement, or for any injury to

the goodwill associated with any trademark, trademark registration, trademark license, or trade name, and (ii) rights to royalties and other payments with respect to the foregoing.

WHEREAS, the Trademark Security Agreement was recorded at the United States Patent and Trademark Office at Reel 2067/Frame 0194 on April 20, 2000; Reel 2079/Frame 0106 on June 23, 2000; and Reel 2104/Frame 0733 on July 19, 2000;

WHEREAS, Debtor requested that Wachovia release and discharge fully its security interest in and to the trademarks listed on Attachment 1 hereto, including all registrations, applications and renewals therefor and all rights associated therewith (the "Released Trademarks"); and

WHEREAS, Wachovia released and discharged fully its security interest in and to the Released Trademarks as documented by that certain Partial Release of Security Interest made and effective as of August 22, 2001 by Wachovia in favor of Debtor (the "Wachovia Partial Release"); and

WHEREAS, the Wachovia Partial Release was recorded at the United States Patent and Trademark Office on or about August 7, 2002; and

WHEREAS, the Released Trademarks were assigned from Debtor to Releasee as documented by that certain Trademark Assignment executed as of August 22, 2001 and recorded at the United States Patent and Trademark Office on or about August 8, 2002; and

WHEREAS, pursuant to that certain letter agreement, dated as of March 25, 2002 (the "Letter Agreement"), among Wachovia, Releasor and certain other lenders, Wachovia assigned to Releasor the rights and duties of Wachovia under various agreements, documents, instruments and certificates (including without limitation, the Trademark Security Agreement); and

WHEREAS, Releasor requested that Wachovia execute that certain Notice of Assignment of Security Interest executed as of March 20, 2002 and recorded at the United States Patent and Trademark Office on March 29, 2002 at Reel 2471/Frame 0978 (the "Notice of Assignment") for the purpose of giving notice of the transfer of Wachovia's right, title, and interest in the Trademark Collateral (as defined in the Trademark Security Agreement) pursuant to the Letter Agreement; and

WHEREAS, the Notice of Assignment included reference to the Released Trademarks, notwithstanding the Wachovia Partial Release; and

WHEREAS, Releasee has requested that Releasor release and discharge fully its security interest, if any, in and to the Released Trademarks; and

WHEREAS, Releasor is willing to release and discharge fully its security interest, if any, in and to the Released Trademarks.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor, on behalf of itself and the lenders party

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to the Credit Agreement, their successors, legal representatives and assigns, hereby releases and discharges fully its security interest (if any) in and to the Released Trademarks, and all other right, title and interest in and to the Released Trademarks conveyed to Releasor (if any) pursuant to the Letter Agreement and Releasor hereby reassigns any and all such right, title and interest that it may have in the Released Trademarks (if any) to Releasee. Releasor further agrees to execute and deliver to Releasee any and all further documents or instruments and do any and all further acts which Releasee (or its agents, designees or assignees) reasonably requests in order to confirm this Release and Releasee's (or its assignee's) right, title and interest in and to the Released Trademarks.

Except as expressly set forth herein, the execution, delivery, and performance of this Partial Release shall not operate as a waiver of or as an amendment of, any right, power, or remedy of Releasor or any other party to the Credit Agreement under the Credit Agreement, the Trademark Security Agreement or any other Loan Document (as such term is defined in the Credit Agreement). The agreements set forth herein are limited to the specifics hereof, shall not apply with respect to any facts or occurrences other than those on which the same are based, shall not excuse any non-compliance with the Credit Agreement, the Trademark Security Agreement, or any other Loan Document (as such term is defined in the Credit Agreement), and shall not operate as a release of any Trademark Collateral or any other assets of any kind other than the Released Trademarks.

IN WITNESS WHEREOF, Releasor has caused this Release to be duly executed
by its officer thereunto duly authorized as of the 5 day of September 2002.

ABLECO FINANCE LLC,
a Delaware limited liability company
as Collateral Agent

By: 

Name: Kevin Gorda

Title: SVP

ATTACHMENT 1

Item A. Trademarks.U.S. TRADEMARKS

<u>Name</u>	<u>Registration Number</u>	<u>Application Number (only if pending)</u>
Crabcake Lounge		75/738763
Jake's	1328806	
Jake's		75/625487
Jake's	1306235	
Jake's	1610827	
M&S Grill	2272893	
McCormick & Schmick's	1520274	
McCormick & Schmick's Harborside	2038613	
McCormick's	1536934	

STATE TRADEMARKS

None.

INTERNATIONAL TRADEMARKS

<u>Name (Jurisdiction)</u>	<u>Number</u>	<u>Application Number (only if pending)</u>
McCormick & Schmick's (EC)		728303

Item B. Trademark Licenses.

None.

ATTACHMENT 1

Item A. Trademarks.U.S. TRADEMARKS

<u>Name</u>	<u>Registration Number</u>	<u>Application Number (only if pending)</u>
Crabcake Lounge		75/738763
Jake's	1328806	
Jake's		75/625487
Jake's	1306235	
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M&S Grill	2272893	
McCormick & Schmick's	1520274	
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